

US EPA and Wyoming Departments of Agriculture

Agriculture Smart Sectors Meeting

Cheyenne, WY

Thursday, September 20, 2018

Meeting Summary

Welcome and Introductions

Patrick Davis, Senior Advisor to the Environmental Protection Agency (EPA) Regional Administrator and Rebecca Perrin, Ag Advisor to the EPA Regional Administrator welcomed attendees and invited the attendees to introduce themselves and offer their ideas for EPA reforms.

Stakeholder Input

Participants introduced themselves and provided the following comments organized by environmental statute:

Clean Water Act:

- Participants asked for flexibility from the EPA as it relates to water storage structures. Sometimes it is difficult to explain the structure being built over the phone. It is important for EPA inspectors to visit the property and understand what the land owner is trying to accomplish.
- Rebecca Perrin provided an update on the status of WOTUS.
- WOTUS – Participants asked for predictability in the new WOTUS rule. They asked for a clearly identified list of the jurisdictional waters in the US accessible on an electronic map including a searchable database to determine which bodies of water are jurisdictional.
- Participants expressed that WOTUS, as it relates to pesticides, was a challenge.
- Participants asked for landowner incentives for the water protection to keep water off the 303d list.
- EPA needs to do a better job articulating its relationship with US Army Corps of Engineers and defining for producers which agency has which roles. Producers need to understand that NRCS acts as a buffer between EPA and USACOE.
- Participants asked for flexibility for states to tailor regulations to unique eco-regions. I.e: WOTUS should provide flexibility for the lack of water in the west. I.e: Hypoxia Task Force required Wyoming to have the same level of nutrient mitigation as Louisiana.

Clean Air Act:

- Participants were grateful for the guidance and direction Region 8 staff provided regarding the CERCLA/EPCRA ag air quality issue.
- Rebecca Perrin explained why food waste is an environmental priority for the EPA, ie: reduce landfill methane gas emissions.

FIFRA:

- State budgets for pesticide application education are shrinking. States need to be able to effectively implement a compliance assistance/education program. "If producers are trained right, they will do right."
- Participants said there no pesticide detects in ag wells in Wyoming but urban areas are a "toxic soup". The harmful effects of urban pesticide/herbicide use need to be communicated better in urban areas.
- Certification and Training (C&T) – Participants expressed frustration with requirements that states assume primacy for C&T programs. This is an issue for Wyoming as they do not currently have primacy for the enforcement program.
- Participants are grateful for the support they receive from Region 8 and EPA HQ pesticide programs but participants cautioned that Region 8 and HQ staff numbers are not sufficient to support the increasing workload in states and in industry.
- There is interest in growing hemp crop in Wyoming. Participants are concerned that EPA has not provided pesticide guidance for hemp production.
- WDA participants asked for more safety training and equipment. They are concerned about meth lab recognition.
- Pesticide General Permit (PGP) – Participants expressed frustration at the duplication of records under PGP and FIFRA. They said WDEQ did a good job streamlining this program.
- West Nile is a problem in Wyoming and sage grouse and horse are also susceptible. It is not limited to a human health issue.
- WDA is concerned that foreign pesticides without EPA labels are coming into Wyoming.
- ESA – Participants explained that Wyoming producers are required to print ESA bulletins and produce them for inspectors even if an endangered species does not exist in their part of the state. An example of one size solution not fitting all situations.
- Pollinator protection – Participants are critical of the promotion of noxious weeds as pollinator plants. They asked for clarifying communication from the EPA.
- The EPA needs to produce outreach material explaining all the reasons pollinators are suffering, not just pesticides.
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NEPA:

- Patrick Davis provided an update on NEPA streamlining at the national and regional levels. Participants said that region 8 staff has a good record in responding to NEPA questions.
- Participants recommended “stacking” NEPA reviews at DOI with other agencies to increase timeliness.
- Participants recommended outlining the NEPA process at the beginning of the project and assign transparent timelines so that all parties are made aware.
- Participants expressed frustration that “similar” NEPA projects take 6 months and others take 6 years to complete with no discernable explanation of the time difference. Participants want to be able to use an old application and update it with new information for “similar” NEPA projects. Participants want the NEPA process to clearly identify what is needed for the project at the beginning of the process.
- Staff changes at regulating agencies can create uncertainty for the regulated community if new staff requires new and different information or if they treat stakeholders inconsistently. Often staff turnover is not communicated to ag producers. (Not just a concern with EPA staff.
- “Don’t reinvent the wheel”. If data exists at another agency, the EPA should be willing to use existing data and not duplicate it.
- EPA needs to develop an expedited temporary permitting process to address situations where a project needs to be expedited because of an emergency, ie: drought. Ag stakeholders also need flexibility to be able to delay projects if the weather is not right, ie: too wet, winter conditions, etc.

Compliance/Enforcement:

- Participants asked for common sense in compliance assistance and help in understanding why enforcement is not applied evenly. Ie: producers receiving a fine for creating dust while making feed for livestock or using a combine near a residential area. Participants are asking for compliance and communication before enforcement actions. EPA should seek first to understand then to be understood.
- Participants said that producers fear EPA fines for doing the right thing for the environment and their business.
- Participants recommended that EPA communicate methods and timelines for compliance before fining. Ex: WPS, farmers fined for not taking down signs.
- Participants expressed a need for changes to University Extension education programs.
- Participants said that it is difficult to get guidance from EPA in advance of inspection/enforcement.
- Participants are wary to invite EPA inspectors on their property because of the threat from region 8 inspectors to flag any violation.

Miscellaneous/Communications/Another Federal agency:

- Participants are grateful for the opportunity to talk with the EPA in this format and particularly being given a “face” to talk to.
- The Wyoming Stock Growers may invite EPA staff to speak at events held in Wyoming.
- EPA is viewed as “heavy handed” and “jurisdictionally hungry”. Outreach to states and departments of agriculture and producers to listen will help correct this perception.
- EPA is challenged working with other land management agencies (state and Fed) because the EPA manages Congressional policy implementation (CWA, CAA, etc.) and it hard for land management agencies to communicate and understand the complicated policies EPA manages.
- Storyboards are helpful to tell ag stories. The ag community in Wyoming needs to hear more “good” ag environmental stories and fewer bad environmental stories.
- Participants want the public to know that ag producers strive to keep ag production in the family and to learn about everything ag is doing to improve soil and water health, often doing more than is required with fewer resources. Participants are grateful for EPA’s Ag In the Classroom project.
- Ag publications in Wyoming would welcome an op-ed from RA Benevento.
- Participants asked that EPA staff give thought to creating permeance to new EPA policies. Ie: Creating policy instead of guidance to make policies durable in a changing political environment.
- Participants recommended that EPA’s Farm Hero program recognize groups and not individuals.
- Participants said that communications from EPA are viewed skeptically because of producer’s experience with WOTUS. It will take time and concerted action from EPA to restore trust.
- Participants explained that economics drive ag producers to conserve resources.
- EPA could do a better job communicating throughout the entire rule making process including implementation.
- The WY Department of Agriculture regulates biodiesel micro-refineries in Wyoming.
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Next Steps

EPA staff will follow up on the various ideas suggested during the meeting and respond to individual concerns in a timely manner.